

**SENATE JOURNAL
65TH LEGISLATURE
ELEVENTH LEGISLATIVE DAY**

Helena, Montana
January 16, 2017

Senate Chambers
State Capitol

Senate convened at 1:01 p.m. President Sales presiding. Invocation by Senator Kary. Pledge of Allegiance to the Flag.

Roll Call. Forty-nine members present, Senator Fielder excused.

BILLS AND JOURNALS (Keenan, Chair): 1/16/2017

Correctly printed: **SB 8, SB 13, SB 19, SB 41, SB 52, SB 54, SB 81, SB 84, SB 118, SB 119, SJ 5.**

Correctly enrolled: **SR 1, SR 2.**

Correctly examined: **SR 2.**

Transmitted to the House: **SJ 1.**

Signed by the Secretary of the Senate at 1:55 p.m., January 16, 2017: **SR 2.**

Signed by the Secretary of the Senate at 3:00 p.m., January 16, 2017: **SR 1.**

SPECIAL ORDERS OF THE DAY

Senator Thomas reminded Senate members that today's Martin Luther King holiday marks the 50th anniversary of Martin Luther King's speech at the Riverside Baptist Church, which included the text "Our lives begin to end the day we become silent about the things that matter."

REPORTS OF STANDING COMMITTEES

JUDICIARY (Regier, Chair): 1/13/2017

SB 22, introduced bill, be amended as follows:

1. Title, page 1, line 8.

Following: "RELATIONSHIP;"

Insert: "PROVIDING THAT THE OBLIGATION TO PAY CHILD SUPPORT IS NOT RELIEVED BY THE TERMINATION OF PARENTAL RIGHTS;"

2. Page 1, line 21.

Following: "incest"

Strike: ", as" through "part 5,"

3. Page 2, line 2.

Following: "except"

Insert: ": (i) "

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

4. Page 2, line 2.

Following: "parent"

Insert: "; and

(ii) that nothing in this section may be construed to relieve the parent whose rights are terminated as provided in [sections 1 through 3] of any child support obligations as provided in Title 40, chapters 4 and 5"

And, as amended, do pass.

SB 26, introduced bill, be amended as follows:

1. Page 2, line 10 through line 11.

Following: "offender"

Strike: "in the course of committing sexual intercourse without consent"

2. Page 5, line 18.

Strike: "46-5-503(1), (3), or (4)"

Insert: "45-5-503(1), (3), or (4)"

And, as amended, do pass.

SB 29, introduced bill, be amended as follows:

1. Title, page 1, line 7 through line 8.

Following: ""CONSENT";"

Strike: remainder of line 7 through "CRIMES;" on line 8

2. Title, page 1, line 9.

Strike: "AND"

3. Page 1, line 10.

Following: "46-18-222,"

Insert: "AND 46-23-502,"

4. Page 1, line 21 through page 11, line 2.

Strike: section 2 in its entirety

Renumber: subsequent sections

5. Page 13, line 22 through line 23.

Following: "committing"

Strike: remainder of line 22 through "consent" on line 23

Insert: "a violation of this section"

6. Page 16, line 25.

Following: line 25

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

Insert: "Section 6. Section 46-23-502, MCA, is amended to read:

"46-23-502 Definitions. As used in 46-18-255 and this part, the following definitions apply:

- (1) "Department" means the department of corrections provided for in 2-15-2301.
- (2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.
- (3) "Municipality" means an entity that has incorporated as a city or town.
- (4) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.
- (5) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.
- (6) "Registration agency" means:
 - (a) if the offender resides in a municipality, the police department of that municipality; or
 - (b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides.
- (7) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle.
 - (b) The term does not mean a homeless shelter.
- (8) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators.
- (9) "Sexual offense" means:
 - (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-303 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-502 (if the offender is a professional licensed under Title 37 and commits the offense during any treatment, consultation, interview, or evaluation of a person's physical or mental condition, ailment, disease, or injury), 45-5-502(3) (if the victim is less than 16 years of age and the offender is 3 or more years older than the victim), 45-5-503, 45-5-504(2)(c), 45-5-504(3) (if the victim is less than 16 years of age and the offender is 4 or more years older than the victim), 45-5-507 (if the victim is less than 18 years of age and the offender is 3 or more years older than the victim or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense), section 1, 45-5-601(3), 45-5-602(3), 45-5-603(1)(b) or (2)(b), 45-5-625, 45-5-704, or 45-5-705; or
 - (b) any violation of a law of another state, a tribal government, or the federal government that is reasonably equivalent to a violation listed in subsection (9)(a) or for which the offender was required to register as a sexual offender after an adjudication or conviction.
- (10) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense.
- (11) "Sexually violent predator" means a person who:

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

(a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or

(b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

(12) "Transient" means an offender who has no residence.

(13) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-302 (if the victim is not a minor), 45-5-303 (if the victim is not a minor), 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state, a tribal government, or the federal government reasonably equivalent to a violation listed in subsection (13)(a)."

And, as amended, do pass.

Without objection, the committee reports were adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/13/2017

HB 3, introduced by N. Ballance

HB 16, introduced by V. Ricci

HB 37, introduced by J. Windy Boy

HB 59, introduced by K. Dudik

HB 65, introduced by K. Holmlund

HB 87, introduced by K. Swanson

HB 135, introduced by K. Dudik

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committee:

SB 120, introduced by N. Swandal, W. Curdy, D. Sands, referred to Business, Labor, and Economic Affairs.

SB 121, introduced by E. Buttrey, D. Fern, L. Jones, D. Salomon, referred to State Administration.

SB 122, introduced by M. MacDonald, referred to Judiciary.

SB 123, introduced by N. Swandal, E. Buttrey, C. Knudsen, S. Morigeau, referred to Judiciary.

SB 124, introduced by E. McClafferty, J. Cohenour, A. Curtis, M. Dunwell, S. Malek, D. Sands, G. Vuckovich, C. Wolken, referred to State Administration.

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

The following House bills were introduced, read first time, and referred to committees:

HB 3, introduced by N. Ballance (by request of the Office of Budget and Program Planning), referred to Finance and Claims.

HB 16, introduced by V. Ricci (by request of the Economic Affairs Interim Committee), referred to Business, Labor, and Economic Affairs.

HB 37, introduced by J. Windy Boy (by request of the State-Tribal Relations Committee), referred to Education and Cultural Resources.

HB 59, introduced by K. Dudik (by request of the Task Force on State Public Defender Operations), referred to Judiciary.

HB 65, introduced by K. Holmlund (by request of the Task Force on State Public Defender Operations), referred to Judiciary.

HB 87, introduced by K. Swanson (by request of the Office of the Court Administrator and the Secretary of State), referred to Judiciary.

HB 135, introduced by K. Dudik (by request of the Department of Corrections), referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Majority Leader Thomas moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Facey in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 77 - Senator Swandal moved **SB 77** do pass. Motion carried as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr. President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

SB 25 - Senator Blasdel moved **SB 25** do pass. Motion carried as follows:

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

SB 68 - Senator Barrett moved **SB 68** do pass. Motion carried as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

SB 30 - Senator Sands moved **SB 30** do pass. Motion carried as follows:

Yeas: Ankney, Barrett, Buttrey, Caferro, Cohenour, Facey, Fitzpatrick, Gauthier, Gross, Hinkle, Howard, Jones, Kary, Keenan, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Phillips, Pomnichowski, Richmond, Salomon, Sands, Sesso, Small, Smith F, Tempel, Thomas, Vuckovich, Welborn, Whitford, Wolken.
Total 35

Nays: Blasdel, Brown, Connell, Hinebauch, Hoven, Lang, Osmundson, Regier, Smith C, Swandal, Vance, Vincent, Webb, Mr.President.
Total 14

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

Absent or not voting: None.

Total 0

Excused: Fielder.

Total 1

SB 17 - Senator Swandal moved **SB 17** do pass. Motion carried as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Fielder.

Total 1

Majority Leader Thomas moved the committee **rise and report**. Motion carried. Committee arose. Senate resumed. President Sales presiding.

Chair Facey moved the Committee of the Whole report be adopted. Report adopted as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Fielder.

Total 1

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 8 passed as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 47

Nays: Keenan, Olszewski.
Total 2

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

SB 13 passed as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald, Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

SB 19 passed as follows:

Yeas: Ankney, Barrett, Blasdel, Brown, Buttrey, Caferro, Cohenour, Connell, Facey, Fitzpatrick, Gauthier, Gross, Hinebauch, Hinkle, Hoven, Howard, Jones, Kary, Keenan, Lang, MacDonald,

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

Malek, McClafferty, McNally, Moe, Moore, Olszewski, Osmundson, Phillips, Pomnichowski, Regier, Richmond, Salomon, Sands, Sesso, Small, Smith C, Smith F, Swandal, Tempel, Thomas, Vance, Vincent, Vuckovich, Webb, Welborn, Whitford, Wolken, Mr.President.
Total 49

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Fielder.
Total 1

UNFINISHED BUSINESS

Mr. President, I move the following name be **ADDED** as sponsor to **SB 69** (M. Moe, Chief Sponsor) : Senator Facey.

Without objection, so ordered.

SPECIAL ORDERS OF THE DAY

Senator Blasdel introduced the Pages for the coming week:

Arianna Bennett from Ryegate, sponsored by Senator Webb
Joanie Sjoström from Malta, sponsored by Senator Lang
Colby Stearns from Billings, sponsored by Senator Richmond

ANNOUNCEMENTS

Senator Jon Tester, U. S. Senator representing Montana, entered the Senate chamber and was welcomed by Senate members.

Senator Whitford announced the American Indian Caucus will be meeting throughout the session on Tuesdays at 12:00 p.m. in Room 335.

Majority Leader Thomas announced the Republicans will caucus tomorrow in room 317 upon adjournment. There will be a surprise speaker and Democrats are welcome.

Committee meetings were announced by the committee chairs.

Majority Leader Thomas moved that the Senate adjourn until 1:00 p.m., Tuesday, January 17,

SENATE JOURNAL
ELEVENTH LEGISLATIVE DAY - JANUARY 16, 2017

2017, the 12th legislative day. Motion carried.

Senate adjourned at 1:38 p.m.

MARILYN MILLER
Secretary of the Senate

SCOTT SALES
President of the Senate